

Message

From: Hicks, Matt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EAA50F546C9B440A98C82F4E9BD5BD69-HICKS, MATTHEW]
Sent: 11/12/2020 4:44:06 PM
To: Siegal, Tod [Siegal.Tod@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Creswell, Michael [Creswell.Michael@epa.gov]
Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

Thanks to both of you for your quick review!

From: Siegal, Tod <Siegal.Tod@epa.gov>
Sent: Thursday, November 12, 2020 11:39 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>
Cc: Creswell, Michael <Creswell.Michael@epa.gov>
Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

I don't have any comments on the new language. These seem to be CWA issues. Thanks.

Tod Siegal
U.S. EPA, Office of General Counsel
Cross-Cutting Issues Law Office
202-564-5552

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Thursday, November 12, 2020 11:38 AM
To: Hicks, Matt <Hicks.Matthew@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>
Cc: Creswell, Michael <Creswell.Michael@epa.gov>
Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

This looks good to me; thanks.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Hicks, Matt <Hicks.Matthew@epa.gov>
Sent: Thursday, November 12, 2020 11:34 AM
To: Siegal, Tod <Siegal.Tod@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Creswell, Michael <Creswell.Michael@epa.gov>
Subject: FW: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

Tod and Simma,

The Region 4 team had a few tweaks to John Goodin's 11/10 proposed changes to the "Reporting and Monitoring" and "Amendment" provisions of the draft PA (see email chain below for rationale). To summarize, the Region 4 team would change the text in the draft PA as follows:

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Do you have any issues with these changes? If not, we'll send the revised PA to senior leadership for their review.

Thanks,

Matt

From: Palmer, Leif <Palmer.Leif@epa.gov>

Sent: Thursday, November 12, 2020 10:39 AM

To: Hicks, Matt <Hicks.Matthew@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>

Cc: Ghosh, Mita <Ghosh.Mita@epa.gov>

Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

I concur with Matt's take and suggest that we ask Tod/Simma's take on the changes. Hopefully it should not take them long.

Matt – can you please check with them?

From: Hicks, Matt <Hicks.Matthew@epa.gov>

Sent: Wednesday, November 11, 2020 11:25 AM

To: McGill, Thomas <McGill.Thomas@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>

Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>

Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

I'm fine with Tom's edit to the Reporting and Monitoring section.

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Please let me know if anyone disagrees with my recommended changes. I'd also like to get Simma and Tod's take on these changes before sending to senior leadership. I defer to Leif and Jeaneanne whether it's best to send the draft PA to senior leadership now without the changes while we check in with Simma and Tod.

Thanks,

Matt

From: McGill, Thomas <McGill.Thomas@epa.gov>

Sent: Tuesday, November 10, 2020 8:35 PM

To: Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>

Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>

Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

Regarding John's first comment, I suggest

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I think John's suggested edits to the Amendment language look good, but I welcome input from the attorneys.

Tom

From: Gettle, Jeaneanne

Sent: Tuesday, November 10, 2020 5:49 PM

To: Hicks, Matt <Hicks.Matthew@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>

Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>

Subject: FW: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

All

Please see John's comments below. I will wait to send this forward to see how/if you feel we should address in the version send to senior leaders.

jmg

From: Goodin, John <Goodin.John@epa.gov>

Sent: Tuesday, November 10, 2020 4:54 PM

To: Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>

Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>

Subject: RE: Deliberative Request Review: Draft 404 Programmatic Agreement (10-20-20)_additional achp language 2nov20 (EPA edits 11-09-20).docx

DELIBERATIVE

Thanks, Jeaneanne—I'm fine with this moving up. A couple of comments for your consideration:

Ex. 5 Deliberative Process (DP)

Thanks,
John

From: Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>

Sent: Tuesday, November 10, 2020 12:09 PM

To: Goodin, John <Goodin.John@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>

Cc: Palmer, Leif <Palmer.Leif@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>

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Deliberative

John, Steve and Andrew:

Attached to this message is a revised draft Programmatic Agreement, in clean and redline, which responds to comments received from the ACHP via email on 10-28-20 and 11-2-20, and during a phone call on 10-29-20. For reference, I've attached the emails from the ACHP transmitting the 10-28 and 11-2 versions. This new revised draft reflects input from Simma, Tod, and ORC, and the following direction we recently received from Dave Ross:

- 1.
2. **Ex. 5 Deliberative Process (DP)**
- 3.

The redline version includes comment bubbles where appropriate to assist Senior Leadership in their review. I plan to forward this to our Dave, David and Mary either later today (pending hearing from you) or at the latest early Thursday. If possible can you give a quick response if you are ok with this moving forward.

Thanks,

Jeaneanne